

Addressing	
From	To
"Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>	Laurie Kermish/R9/USEPA/US@EPA Ken Greenberg/R9/USEPA/US@EPA Michelle Moustakas <Moustakas.Michelle@epamail.epa.gov>
CC	BCC
"Dworkin, Karen (ENRD)" <Karen.Dworkin@usdoj.gov> "Friedman, Henry (ENRD)" <Henry.Friedman@usdoj.gov> "Smith, Justin (ENRD)" <Justin.Smith@usdoj.gov>	
Description Form Used: Memo	
Subject	Date/Time
citizen suit SEP inquiry - private lateral line replacement	02/07/2013 03:42 PM
# of Attachments	Total Bytes
0	52,744
NPM	Contributor
	Kimberly Wells
Processing	
Comments	

Body

Document Body

EES/EPA—

Attorney-Client

[Redacted]

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[Redacted]

[Redacted]

[Redacted]

Attorney-Client

[Redacted]

[Redacted]

[Redacted]

Attorney- (I'm not available at the time Jerry's email suggests, but could try and set up a different time tomorrow or next week).

Thanks,

Judy Harvey

U.S. Department of Justice

Environment and Natural Resources Division

Law and Policy Section

(202) 514-3932

From: Jerry Bernhaut [mailto:j2bernhaut@yahoo.com]

Sent: Thursday, February 07, 2013 5:04 PM

To: Harvey, Judy (ENRD)

Subject: Re: River Watch phone conference

Judy,

In our negotiations with San Jose regarding their sewage system overflows (SSOs) they are proposing a loan program to help fund the inspection and repair of private sewer laterals, which are the property owner's responsibility, as a SEP. It does have the required public benefit and nexus in that deteriorated private laterals allow the inflow of rain water and ground water into the sewage system, which is a significant contributing factor to SSOs.

However, as we understand it, a loan program where the funds are repaid does not have the deterrent effect of a penalty, which is a function that a SEP in lieu of penalties should satisfy. A grant for the same purpose should satisfy the EPA guidelines.

Are you available 9 a:m: pacific time tomorrow?

Thanks,

Jerry

Received: from ENRD-MSG-210.JCONMAIL.doj.gov (10.230.12.53) by ENRD-MSG-211.JCONMAIL.doj.gov (10.230.12.54) with Microsoft SMTP Server (TLS) id 14.1.323.3; Mon, 17 Sep 2012 20:20:50 -0400

Received: from MAIL-MSG-432.JCONMAIL.doj.gov (10.11.38.32) by ENRD-MSG-210.JCONMAIL.doj.gov (10.230.12.53) with Microsoft SMTP Server (TLS) id 14.1.323.3; Mon, 17 Sep 2012 20:20:50 -0400

Received: from MAIL-MSG-420.JCONMAIL.D.OJ.GOV (10.11.38.20) by MAIL-MSG-432.JCONMAIL.doj.gov (10.11.38.32) with Microsoft SMTP Server id 14.2.318.1; Mon, 17 Sep 2012 20:20:50 -0400

Received: from MAIL-MSGE-422.JCONMAIL.DOF.GOV ([10.11.38.22]) by MAIL-MSGE-420.JCONMAIL.DOF.GOV with Microsoft SMTPSVC(6.0.3790.4675); Mon, 17 Sep 2012 20:20:49 -0400
Received: from emsagent1.dof.gov ([10.222.4.21]) by MAIL-MSGE-422.JCONMAIL.DOF.GOV with Microsoft SMTPSVC(6.0.3790.4675); Mon, 17 Sep 2012 20:20:49 -0400
Received: from mblast02.rtp.epa.gov ([10.4.218.41]) by emsagent1.dof.gov (8.14.1/8.14.1) with ESMTP id q8I0Kn5Z019818 for <Judith.Harvey@usdoj.gov>; Mon, 17 Sep 2012 20:20:49 -0400
Received: from mblast02.rtp.epa.gov (localhost.localdomain [127.0.0.1]) by localhost (Postfix) with SMTP id 9FFD544388 for <Judith.Harvey@usdoj.gov>; Mon, 17 Sep 2012 20:20:49 -0400 (EDT)
Received: from mintra03.pyd.epa.gov (mintra03.pyd.epa.gov [161.80.134.169]) by mblast02.rtp.epa.gov (Postfix) with ESMTP id 6404D44381 for <Judith.Harvey@usdoj.gov>; Mon, 17 Sep 2012 20:20:49 -0400 (EDT)
Received: from mintra03.pyd.epa.gov (localhost.localdomain [127.0.0.1]) by localhost (Postfix) with SMTP id 34CDE7A834F for <Judith.Harvey@usdoj.gov>; Mon, 17 Sep 2012 20:20:49 -0400 (EDT)
Received: from w1818tdcgu113.aa.ad.epa.gov (w1818tdcgu113.aa.ad.epa.gov [161.80.134.171]) by mintra03.pyd.epa.gov (Postfix) with ESMTP id 1C5637A834C for <Judith.Harvey@usdoj.gov>; Mon, 17 Sep 2012 20:20:49 -0400 (EDT)
Subject: Re: lateral replacement loan program as SEP?
From: Ken Greenberg <Greenberg.Ken@epamail.epa.gov>
Date: Mon, 17 Sep 2012 20:20:46 -0400
To: Laurie Kermish <Kermish.Laurie@epamail.epa.gov>, Hugh Barroll <Barroll.Hugh@epamail.epa.gov>
CC: "Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>, Michelle Moustakas <Moustakas.Michelle@epamail.epa.gov>
Message-ID: <OF3789EE3D.5373FAA7-ON85257A7D.0001E6FD@epamail.epa.gov>
Content-Type: multipart/related;
boundary="0__=0ABBF0EEDF92606D8f9e8a93df938690918c0ABBF0EEDF92606D"
X-MIMETrack: Serialize by Router on EPAHUB13/USEPA/US(Release 8.5.2FP2|March 22, 2011) at 09/17/2012 08:20:49 PM
X-Proofpoint-Virus-Version: vendor=fsecure engine=2.50.10432:5.5.7110,1.0.211,0.0.0000 definitions=2011-12-09_07:2011-12-09,2011-12-09,1970-01-01 signatures=0
Return-Path: Greenberg.Ken@epamail.epa.gov
X-OriginalArrivalTime: 18 Sep 2012 00:20:49.0672 (UTC) FILETIME=[74A91080:01CD9533]
X-MS-Exchange-Organization-AuthSource: MAIL-MSGE-432.JCONMAIL.dof.gov
X-MS-Exchange-Organization-AuthAs: Internal
X-MS-Exchange-Organization-AuthMechanism: 0b
X-MS-Exchange-Organization-AVStamp-Mailbox: MSFTFF;1;0;0 0 0
MIME-Version: 1.0

Attorney-Client

▼ Laurie Kermish

----- Original Message -----

From: Laurie Kermish

Sent: 09/17/2012 04:58 PM PDT

To: Ken Greenberg; Hugh Barroll

Cc: "Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>

Subject: lateral replacement loan program as SEP?
either of you have any thoughts on this?

----- Forwarded by Laurie Kermish/R9/USEPA/US on 09/17/2012 04:57 PM -----

From: "Harvey, Judy (ENRD)" <Judith.Harvey@usdoj.gov>

To: "Dworkin, Karen (ENRD)" <Karen.Dworkin@usdoj.gov>, "Friedman, Henry (ENRD)" <Henry.Friedman@usdoj.gov>, Laurie Kermish/R9/USEPA/US@EPA, Marguerite Meeks/DC/USEPA/US@EPA, Sherry Milan/DC/USEPA/US@EPA,

Cc: "Smith, Justin (ENRD)" <Justin.Smith@usdoj.gov>, "Lu, Sarah (ENRD)" <Sarah.Lu@usdoj.gov>

Date: 09/17/2012 01:56 PM

Subject: RE: REG 09 CWA CITIZEN SUIT SETTLEMENT AGREEMENT FOR REVIEW/COMMENTS. REF. NO. DJ 90-1-24-03389

EPA and EES –

Attorney-Client

Any thoughts would be appreciated.

Thanks,
Judy

From: Woolner, Rhodora (ENRD)

Sent: Thursday, September 13, 2012 3:51 PM

To: Harvey, Judy (ENRD); Lu, Sarah (ENRD); Dworkin, Karen (ENRD); Friedman, Henry (ENRD); Kermish, Laurie; Meeks, Marguerite; Milan, Sherry

Cc: Smith, Justin (ENRD); Woolner, Rhodora (ENRD)

Subject: REG 09 CWA CITIZEN SUIT SETTLEMENT AGREEMENT FOR REVIEW/COMMENTS.
REF. NO. DJ 90-1-24-03389

Reviewers:

Please review attached proposed consent decree. Provide comments to Judy Harvey
<mailto:judith.harvey@usdoj.gov> and to Sarah Lu <mailto:sarah.lu@usdoj.gov> by COB 09/24/2012.

Thank you,
Rhodora N. Woolner, SAS
U.S. Department of Justice

ENRD LPS
Robert F. Kennedy Building
950 Pennsylvania Ave., N.W.
Room 2610
Washington, DC 20530
Phone: (202) 305-1721
Main Phone: (202) 514-1442
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Email Address: rhodora.woolner@usdoj.gov
"A man's reach should exceed his grasp". Robert Browning

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From: Lu, Sarah (ENRD)
Sent: Monday, September 10, 2012 2:03 PM
To: Woolner, Rhodora (ENRD)
Subject: FW: No. Calif. River Watch and West Valley Sanit. Dist. - Agreement for Review

FYI—please note today as date of receipt. Thanks!

From: Harvey, Judy (ENRD)
Sent: Monday, September 10, 2012 2:02 PM
To: Lu, Sarah (ENRD)
Subject: Fw: No. Calif. River Watch and West Valley Sanit. Dist. - Agreement for Review

Sent Using U.S. DOJ/ENRD BES 5 Server

From: Lisa Mador [<mailto:lhm28843@sbcglobal.net>]
Sent: Monday, September 10, 2012 01:54 PM
To: Harvey, Judy (ENRD)
Cc: Jerry Bernhaut <j2bernhaut@yahoo.com>; Jack Silver <warrioreco@yahoo.com>; Kenton L. Alm <kalm@meyersnave.com>; Sarah Olinger <solinger@meyersnave.com>
Subject: Re: No. Calif. River Watch and West Valley Sanit. Dist. - Agreement for Review

Good Morning Ms. Harvey,

Attached please find communication from Attorney Bernhaut providing a Settlement Agreement for review by the Dept. of Justice in this matter.

Lisa Mador

Lisa Hersom Mador
Legal Assistant
Law Office of Jack Silver
P.O. Box 5469

Santa Rosa, CA 95402-5469

Tel. 707-528-8175

Fax. 707-528-8675

lh28843@sbcglobal.net

[attachment "Ltr to DOJ Re West Valley Settlement - 09-10-12.pdf" deleted by Ken Greenberg/R9/
USEPA/US]



graycol.gif